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## **EXHIBIT 3**

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# Trump Prepares for Legal Fight Over His ‘Birthright Citizenship’ Curbs

Many constitutional scholars and civil-rights groups have said a change can’t be done through executive action

By [Tarini Parti](#) [Follow](#) and [Michelle Hackman](#) [Follow](#)

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People riding the ferry to Ellis Island for a naturalization ceremony pass the Statue of Liberty. PHOTO: ALEX KENT/AFP/GETTY IMAGES

WASHINGTON—President-elect Donald Trump’s transition team is drafting several versions of his long-promised executive order to curtail automatic citizenship for anyone born in the U.S., according to people familiar with the matter, as his aides prepare for an expanded legal fight.

Trump, who has railed against so-called birthright citizenship for years, said during his first term that he was planning an executive order that would outright ban it. Such an order was never signed, but the issue remained a focus of Trump's immigration proposals during his re-election campaign. He has said he would tackle the issue in an executive order on day one of his second term.

Weeks before he takes office, Trump's transition team is now considering how far to push the scope of such an order, knowing it would almost immediately be challenged in court, according to a transition official and others familiar with the matter. The eventual order is expected to focus on changing the requirements for documents issued by federal agencies that verify citizenship, such as a passport.

Through an executive order or the agency rule-making process, Trump is also expected to take steps to deter what Trump allies call "birth tourism," in which pregnant women travel to the U.S. to have children, who receive the benefit of citizenship. One option on the table is to tighten the criteria to qualify for a tourist visa, according to people familiar with the Trump team's thinking. Tourist visas are most often issued for a period of 10 years, though the tourist can't stay in the U.S. on each visit for longer than six months.



President-elect Donald Trump has said he would tackle birthright citizenship in an executive order on day one of his second term. PHOTO: OLIVIER TOURON/AFP/GETTY IMAGES

Karoline Leavitt, a spokeswoman for the Trump transition, said the president-elect "will use every lever of power to deliver on his promises, and fix our broken immigration system once and for all."

Some on the right have backed Trump's plans and argued that birthright citizenship is a misinterpretation of the 14th amendment, which dates back to the 19th century and in part granted full citizenship to former slaves. They have also criticized birth tourism. Companies in China have attracted attention in recent years for advertising such services, and airlines in Asia even started turning away some pregnant passengers they suspected of traveling to give birth.

"Because you happen to be in this country when your child is born, is not a reason for that child to be a U.S. citizen. It's just silly, and the reliance on it in law is utterly misplaced," said Ken Cuccinelli, a senior fellow at the Center for Renewing America, a pro-Trump think tank, who previously served as deputy secretary of Homeland Security.

Many constitutional scholars and civil-rights groups have said a change to birthright citizenship can't be done through executive action and would require amending the Constitution—a rare and difficult process. The most recent amendment was ratified in 1992, more than 200 years after it was first proposed.

Trump on the campaign trail this year offered more details on what executive action related to birthright citizenship could include compared with his first term, a change that some backers took as an indication that he is more willing to act on the issue.

Trump said he would sign a "day one" executive order directing federal agencies to require a child to have at least one parent be either a U.S. citizen or legal permanent resident to automatically become a U.S. citizen. It would also stop agencies from issuing passports, Social Security numbers and other welfare benefits to children who don't meet the new requirement for citizenship, the president-elect's campaign had said.

"My policy will choke off a major incentive for continued illegal immigration, deter more migrants from coming, and encourage many of the aliens Joe Biden has unlawfully let into our country to go back to their home countries," Trump said in a campaign video.

But the requirement that at least one parent be a U.S. citizen or legal permanent resident would also affect children born to parents who immigrated legally



through visas, excluding them from automatic citizenship.

“The new piece of it is them talking publicly about the mechanism they might try to use to operationalize this unconstitutional plan,” said Omar Jadwat, director of the American Civil Liberties Union’s Immigrants’ Rights Project. “They just can’t do that consistent with the constitution.”



Portrait of Wong Kim Ark, whose case affirmed birthright citizenship. PHOTO: NATIONAL ARCHIVES/GETTY IMAGES

“Litigation is definitely going to follow,” he added.

The Supreme Court affirmed birthright citizenship in its 1898 ruling in *U.S. v. Wong Kim Ark*. But critics of automatic citizenship argue Trump’s proposed citizenship restrictions would be different from that case, which involved a child born to Chinese parents who were legal permanent residents in the U.S.

Trump’s allies say a legal fight that makes its way to the Supreme Court is the point of the executive order.

“Force the issue and see what happens,” said Mark Krikorian, executive director for the Center for Immigration Studies, a group favoring immigration restrictions that was close to Trump’s first administration. Even with the court’s conservative majority, Krikorian isn’t optimistic about Trump’s chances.

“I think they’ll probably uphold the current interpretation of the 14th Amendment,” he said. “They’re going to want to start that court fight as soon as possible to see if they can see it through to the end before the administration ends,” he said.

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